



C.R.P(PD).No.2301 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2022

C O R A M:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P(PD). No.2301 of 2018
and C.M.P.No.14355 of 2018

S.Sindhu

... Petitioner

Vs.

A.Janakiammal (Died)

1. A.Sangameswaran
2. S.Nandhakumar
3. S.Santhoshkumar
4. A.Sundaram
5. S.Samuthra
6. S.Varshini
7. A.Natesan
8. N.Pavithra
9. N.Vasunthra
- 10.A.Sandanandhan
- 11.Vimalesh
- 12.Samanvitha
- 13.Karumbarkulali
- 14.Karthikeyan
- 15.Arun
- 16.Santhi
- 17.Kalyani
- 18.Kalaivani @ Sumathi
- 19.Madalaimuthu
- 20.Lourdhumeri
- 21.J.N.Sethu



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22.Thilagavathi
23.Saratha
24.J.L.Radhakrishnan
25.Anitha
26.Kalyani
27.Minor Adhithya Narayanan, S/o Bharathi
28.Minor Kesava Narayanan, S/o Bharathi
29.Minor Rajasree Bharathi, D/o Bharathi ... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 04.01.2018 in I.A.No. 67 of 2017 in O.S.No.47 of 2012 on the file of II Additional Sub Court, Erode.

For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondents : Mr.V.S.Kesavan for R3, R7,
R10, R11, R13 and R14

: M/s.Zeenath Begum for R21 to R25

: Mr.V.Venkataseshan for R19 and R20

ORDER

This Civil Revision Petition has been filed against the order dated 04.01.2018 in I.A.No. 67 of 2017 in O.S.No.47 of 2012 on the file of II Additional Sub Court, Erode.



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2. The petitioner herein is the plaintiff who filed the suit in O.S.No. 47 of 2012 for declaration and permanent injunction on the file of the Subordinate Judge, Erode and the same is pending. Along with the suit, the petitioner had file the application in I.A.No. 67 of 2017 to implead the proposed parties respondents/defendants 16 to 30 in the said suit. But, the learned Judge had dismissed the said application on the ground that the petitioner filed the plaint seeking for six substantial reliefs against the 15 defendants, with respect to two schedule of properties. Now, the petitioner filed an application to add further 5 properties and 15 persons as defendants, without describing the nature of property. Therefore, the learned Subordinate Judge dismissed the said application.

3. Aggrieved by the said dismissal order, the present Civil Revision Petition has been filed by the revision petitioner/plaintiff.

4. The learned Counsel for the petitioner would submit that the learned Judge failed to note that the petitioner being “Dominus Litus” is expected to seek relief for all the properties of the family and partial partition is bad in law. Unless the proposed parties are impleaded, amendment cannot



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be made in the plaint for the inclusion of the balance of property, which is failed to be included in the suit schedule. He further submitted that the learned Judge erred in dismissing the petition on the sole ground that the proposed parties were neither a necessary party nor a proper party to the suit. Even without providing an opportunity to the petitioner to prove the averments made in support of the impleading petition, the learned Trial Judge dismissed the application. Therefore, he prayed to allow the present petition filed and to set aside the order passed by the learned Judge.

5. The learned counsel for the respondent would submit that the petitioner herein does not file the details of the relationship between them, to implead in the said suit. He further submitted that the petitioner filed the petition in order to create difficulty and losses against these proposed parties. Further Respondents No. 28, 29, 30 are minors. He would further submit that the petitioner's only motive is to deceive the proposed parties, by way of adding them in the Suit in O.S.No.47 of 2012. But, the learned Judge had rightly found that the petitioner is not entitled for the relief sought for in the application and dismissed the same. Hence, he prayed to dismiss the petition.



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6. Heard both sides and perused the materials available on record.

7. A perusal of materials would go to show that the learned Judge had rightly found that the petitioner have not described whether the proposed parties are proper parties in his petition and there is no facts emanate to show that the proposed parties are proper parties to the proceedings. By considering all these facts, the Trial Court has rightly dismissed the application and the order passed by the learned II Additional Subordinate Judge, Erode in I.A.No. 67 of 2017 is a well considered order. This Court does not find any infirmity in the Order of the Court below.

8. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.08.2022

nti/jer

Index:Yes/No

Internet:Yes/No

Speaking order/Non-speaking order



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J.NISHA BANU,J.

nti

To

1. The II Additional Subordinate Court,
Erode.
2. The Section Officer,
V.R.Section, High Court of Madras.

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